

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

HARVEY HORWITZ, Derivatively on
Behalf of TENET HEALTHCARE
CORPORATION,

Plaintiff,

V.

TREVOR FETTER, DANIEL J.
CANCELMI, R. SCOTT RAMSEY,
EDWARD A. KANGAS, BRENDA J.
GAINES, KAREN M. GARRISON, J.
ROBERT KERREY, FRED A. LEWIS-
HALL, RICHARD R. PETTINGILL,
RONALD A. RITTENMEYER, TAMMY
ROMO, JAMES A. UNRUH, BIGGS C.
PORTER, JOHN E. BUSH, and J.
MCDONALD WILLIAMS,

Defendants,

-and-

TENET HEALTHCARE CORPORATION,
a Nevada corporation,

Nominal Defendant.

Case No. 3:17-cv-00195-M

PLAINTIFF'S NOTICE OF VOLUNTARY
DISMISSAL WITHOUT PREJUDICE
PURSUANT TO FED. R. CIV. P. 41(a)

Plaintiff Harvey Horwitz ("Plaintiff"), by and through his undersigned counsel, states as follows:

WHEREAS, on January 23, 2017, Plaintiff filed a shareholder derivative complaint on behalf of Tenet Healthcare Corporation ("Tenet" or the "Company") alleging breach of fiduciary duty, waste of corporate assets, and unjust enrichment against certain of the Company's officers and directors (collectively with Tenet, "Defendants");

WHEREAS a consolidated securities fraud class action asserting federal claims arising from facts common to this action, captioned *In re Tenet Healthcare Corporation Securities Litigation*, Civil Action No. 3:16-cv-02848-C (the "Securities Action"), was also pending in this Court;

WHEREAS, on March 28, 2017, the parties submitted a stipulation to stay this action pending the resolution of defendants' motion to dismiss in the Securities Action (Dkt. No. 11), which was approved and entered by the Court on April 3, 2017 (Dkt. No. 12);

WHEREAS, on December 20, 2017, an order and judgment were entered in the Securities Action granting defendants' motion to dismiss and dismissing plaintiffs' complaint with prejudice;

WHEREAS no Defendant has filed either an answer or a motion for summary judgment in this action;

WHEREAS Plaintiff now wishes to voluntarily dismiss this derivative action without prejudice pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure;

WHEREAS counsel for Plaintiff has conferred with counsel for Defendants, and Defendants do not object to Plaintiff's voluntary dismissal of this action, with each side to bear their own costs; and

WHEREAS Plaintiff respectfully submits that notice of said dismissal is unnecessary to protect the interests of Tenet and its shareholders for the following reasons: (i) Plaintiff seeks dismissal without prejudice; (ii) there is currently a related shareholder derivative action, captioned *In re Tenet Healthcare Corporation Derivative Litigation*, Cause No. DC-16-15118, pending in the District Court of Dallas County, Texas, 14th Judicial District, which will preserve the derivative claims Plaintiff here sought to bring on behalf of Tenet; (iii) there has been no settlement or compromise or attempt to seek such; (iv) there has been no collusion among the parties; and (v) neither Plaintiff nor his counsel has received nor will receive any consideration from Defendants for the dismissal;

NOW THEREFORE, pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiff hereby dismisses the above-captioned derivative action without prejudice, with each side to bear their own costs.

Dated: January 19, 2018

ROBBINS ARROYO LLP

s/ Kevin A. Seely

KEVIN A. SEELY (admitted *pro hac vice*)

BRIAN J. ROBBINS

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2018, I electronically filed the foregoing with the clerk of Court using the CM/ECF system, which will send a notification to all counsel of record in this Action.

s/ Kevin A. Seely

Kevin A. Seely
(admitted *pro hac vice*)